

CITY OF NEWTON
IN BOARD OF ALDERMEN

ORDINANCE NO. A-4

October 1, 2012

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2012, as amended, be and are hereby further amended with respect to Chapter 30 **Zoning** as follows:

I.. Add the following definitions to **Section 30-1. Definitions.**

Mixed-use residential building: A building occupied by both residential and nonresidential uses.

Street level: The level of a building the floor of which is nearest to the grade of the adjacent sidewalk.

II. Delete existing subsections 30-13(h) and 30-13(i) and insert the following:

Section 30-13(h) Establishment and purposes of the Mixed Use 4 District

(1) *Purposes.* The purposes of the Mixed Use 4 District are to:

- a) Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's *Comprehensive Plan*.
- b) Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
- c) Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
- d) Expand the diversity of housing options available in Newton.
- e) Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

(2) *Allowed uses.* In the Mixed Use 4 District, land, buildings, and structures may be used or may be designed, arranged, or constructed for one or more of the purposes listed in Table B, below. In granting a special permit in accordance with the procedures of section 30-24 for a use enumerated below, the board of aldermen shall make a finding that the proposed use will encourage an active, pedestrian-oriented streetscape throughout the day and week, that the proposed use fills a demonstrated need for the use within the vicinity, and that the proposed use is not inconsistent with the purposes of this section 30-13(h)(1) or the Newton *Comprehensive Plan*.

TABLE B: PRINCIPAL USES FOR THE MIXED USE 4 DISTRICT¹	
Uses similar to or accessory to the following may be allowed as determined by the Commissioner of Inspectional Services ²	
Commercial	
• General office, including but not limited to research and development, professional offices, and medical office, above or below street level	BR
• At street level ³	SP
• Animal Services, including but not limited to sales and grooming and veterinary services; excluding overnight boarding	SP
• Retail sales establishments that are 5,000 square feet or less in area, including but not limited to specialty food store, convenience store, newsstand, bookstore, food coop, retail bakery, art gallery, and general merchandize store	BR
• More than 5,000 square feet of gross floor area	SP
• Personal service establishments that are 5,000 square feet or less in area, including but not limited to barbershop, salon, tailor, cobbler, personal trainer or fitness studio, laundry, and dry cleaning drop-off	BR
• More than 5,000 square feet of gross floor area	SP
• Business service establishments that are 5,000 square feet or less in area, including but not limited to copying and printing establishments and shipping services	BR
• More than 5,000 square feet of gross floor area	SP
• Eating and drinking establishments with 50 seats or less	BR
• More than 50 seats	SP
• Open between the hours of 11:30 p.m. and 6:00 a.m.	SP
• Retail banking and financial services that are 5,000 square feet or less in area	BR
• More than 5,000 square feet of gross floor area	SP
• Health club	SP
• Place of entertainment and assembly, theater, club	SP
• Lodging, including but not limited to bed and breakfast, hotel, motel	SP
• Open-Air Business	SP
Residential	
• Multifamily dwellings (a building containing three or more dwelling units) above street level	BR
• At street level	SP
• Live/work space or home business	BR
• Assisted living or nursing home	SP
Civic, Public, and Community	
• Community use space	BR
• Day care services for adults or children	BR
• Place of religious assembly	BR
• Government offices or services	BR
• Park or garden	BR
• Nonprofit or public school	BR
• Library or museum	BR

• Other uses allowed in Section 30-6	BR
Transportation and Infrastructure	
• Parking, public or accessory to an allowed use	BR
• Parking, non-accessory commercial	SP
• Car-sharing services, bike rental, electric car-charging stations	BR
• Public rail or bus station	BR
Prohibited	
Drive-in business, hospital, manufacturing, funeral home, sales of motor vehicles, car wash, gas station or motor vehicle service station, fast food establishments as defined in Section 30-1, personal storage warehouse	

¹ Uses listed in Table B are permitted as of right in the Mixed Use 4 District where denoted by the letter "BR." Uses designated in the Table by the letters "SP" may be allowed only if a special permit is issued by the board of aldermen in accordance with the procedures in section 30-24. Where more than one enumerated classification could apply to a proposed use, the most specific classification shall be employed; where the uses are equally specific, the most restrictive classification shall be employed.

² Any use determined to be similar to a use listed in Table B shall be subject to the same level of review as the use to which it is similar. An accessory use is only allowed if the use to which it is accessory is allowed, as shown in Table B.

³ Street level as defined in section 30-1; street-level entry lobbies permitted per section 30-15(w)(5)

Section 30-13(i) *Site Plan Approval, Building Size*. In all Mixed Use Districts, land and buildings may be used for the purposes authorized in their respective districts, provided that:

- (1) any proposed building(s) or structure(s) containing individually or in the aggregate between 10,000 and 19,999 square feet in gross floor area; or
- (2) any addition(s) to an existing building(s) or structure(s) containing individually or in the aggregate between 10,000 and 19,999 square feet in gross floor area which increases the total gross floor area to less than 20,000 square feet; or
- (3) any addition(s) to an existing building(s) or structure(s) which increases the gross floor area individually or in the aggregate to between 10,000 and 19,999 square feet in gross floor area

shall require site plan approval in accordance with section 30-23, except that after August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure identified in subsection (2) or (3) of this section shall not be subject to site plan approval. All building(s), structure(s) and addition(s) thereto shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot. However, nothing herein prohibits phased development of a property, shared open space, pedestrian or vehicular connections between parcels, shared parking between the parcel(s) and other parcels in the vicinity, and/or similar design features that are in keeping with the vision for the subject parcel in the Comprehensive Plan and supporting documents.

III. Insert a new subsection 30-13(j) as follows:

(j) *Special Permit, Building Size.* In all mixed-use districts, land and buildings may be used for the purposes authorized in their respective districts, provided that:

- (1) any proposed building(s) or structure(s) containing individually or in the aggregate 20,000 or more square feet in gross floor area; or
- (2) any addition(s) to an existing building(s) or structure(s) containing individually or in the aggregate 20,000 or more square feet in gross floor area; or
- (3) any addition(s) to an existing building(s) or structure(s) which increases the gross floor area individually or in the aggregate to 20,000 or more square feet in gross floor area

shall require a special permit in accordance with section 30-24, except that after August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure identified in subsection (2) or (3) of this section shall only require site plan approval pursuant to section 30-23. In granting a special permit, the board of aldermen shall make a finding that the proposed site plan and building form is compatible with the neighborhood context, that the proposed project improves the pedestrian environment through design, additional building setback from the public way, creation of beneficial open space, and/or improvements to the public way, including plans for their maintenance and use, and that the proposed uses enhance the commercial and civic vitality of the vicinity. All building(s), structure(s) and addition(s) thereto shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot. However, nothing herein prohibits phased development of a property, shared open space, pedestrian or vehicular connections between parcels, shared parking between the parcel(s) and other parcels in the vicinity, and/or similar design features that are in keeping with the vision for the subject parcel in the Comprehensive Plan and supporting documents.

IV. Add the following to section 30-15, **TABLE 1**:

<i>Zoning District</i>	<i>Minimum Required Lot Area</i>	<i>Minimum Lot Area per unit</i>	<i>Minimum lot Frontage</i>	
Mixed Use 4	10,000	1,000	80	SEE TABLE 3 for other dimensional controls

V. Add the following to section 30-15, **TABLE 3**:

Zoning District	Max. # of Stories	Bldg. Ht. (ft.)	Total Floor Area Ratio	Gross Floor Area/ Site Plan Approval (SF)	Threshold by Special Permit (Gross Floor Area; SF)	Min Lot Area (SF)	Lot Coverage	Beneficial Open Space	Front (feet)	Side (ft.)	Rear (ft.)
Mixed Use 4											
As of Right ¹⁴	2	24	1.0	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	0-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴
By Special Permit ¹⁴	4	48	2.0	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	0-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴
Mixed-use residential, by right ¹⁴	3	36	1.5	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	0-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴
Mixed-use residential, by Special Permit ¹⁴	5	60	2.5	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	0-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴

¹⁴ See sec. 30-15(w) for additional dimensional requirements for developments within the Mixed Use 4 Zone.

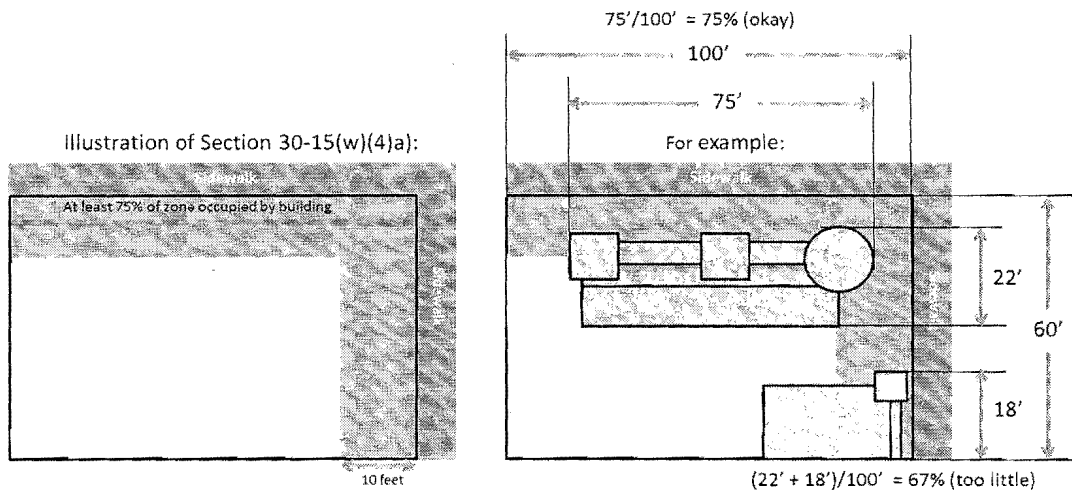
VI. Insert a new subsection 30-15(w) as follows:

30-15(w) Design Standards for the Mixed Use 4 District. Notwithstanding any provisions of Section 30-15 to the contrary, buildings and structures in the Mixed Use 4 Zone shall conform to the following standards:

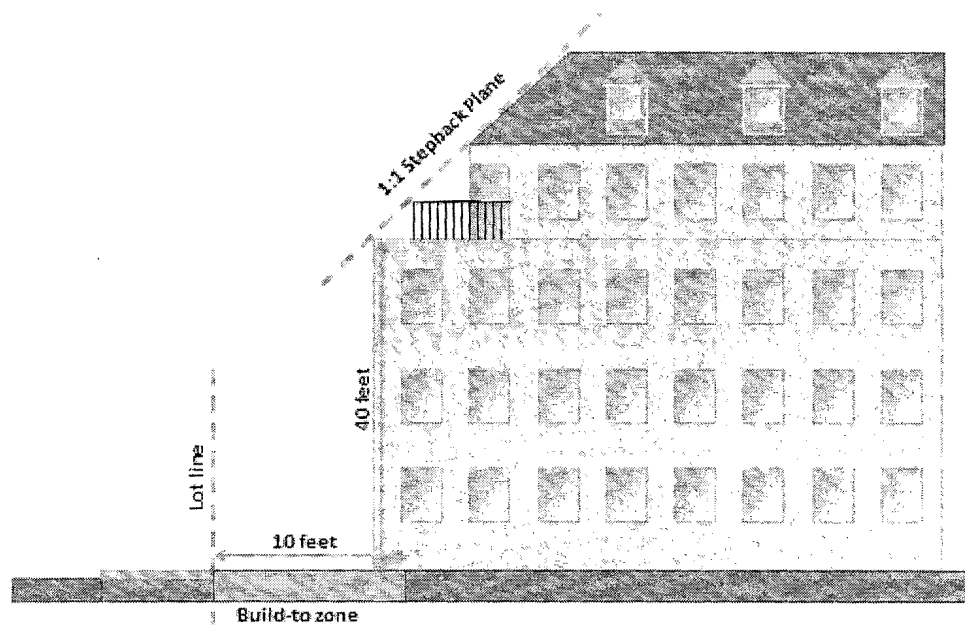
- (1) *Height.* Buildings in the Mixed Use 4 Zone shall be a minimum of two (2) stories and shall conform to the limits for building height and stories established in section 30-15, Table 3. The board of aldermen may grant a special permit in accordance with the procedures in section 30-24 to allow up to four (4) stories and forty-eight (48) feet of building height by finding that the proposed structure(s) is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of section 30-13(h)(1).
- (2) *Mixed-Use Residential Incentive.* Buildings that meet the definition of Mixed-Use Residential Buildings per section 30-1 shall conform to the specific limits for building height and stories established in section 30-15, Table 3. The board of aldermen may grant a special permit in accordance with the procedures in section 30-24 to allow up to five (5) stories and sixty (60) feet of building height by finding that the proposed structure(s) is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of section 30-13(h)(1).
- (3) *Residential Density.* The board of aldermen may grant a special permit in accordance with the procedures in section 30-24 to waive the lot area per dwelling unit requirement of Table 3 by finding that the proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic on roads in the vicinity, and better achieves the purposes of section 30-13(h)(1) than strict compliance with these standards.

(4) *Setbacks.* The board of aldermen may grant a special permit in accordance with the procedures in section 30-24 to waive the following setback requirements by finding the proposed plan can better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage the purposes of section 30-13(h)(1) than strict compliance with the following standards.

- a) A minimum of 75% of the frontage of the lot facing a public way shall contain a building(s), the first floor façade of which is setback between zero and ten feet from lot line.

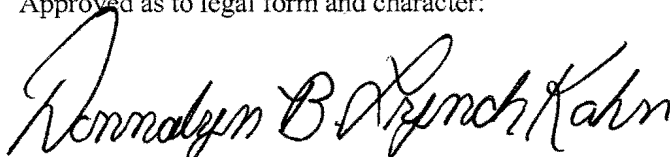


- b) No side or rear setbacks are required, except, where abutting a residential district, the required side and rear setbacks shall be no less than twenty (20) feet.
- c) Any portion of a building greater than 40 feet in height must be setback one foot from the adjacent lot line for each additional foot of height.





- (5) *Accessibility*. The design of the building(s) and the site plan shall comply with the Americans with Disabilities Act and the rules and regulations of the Massachusetts Architectural Access Board.
- (6) *Transparency and Entrances*. Commercial uses in a Mixed Use 4 Zone must meet the following requirement. The board of aldermen may grant a special permit in accordance with the procedures in section 30-24 to waive these requirements by finding the proposed design better enables appropriate use of the site, supports pedestrian vitality, and achieves the purposes of section 30-13(h)(1) than strict compliance with the following standards.
- a) There shall be at least one entrance every fifty feet of building frontage facing a public way.
 - b) A minimum of 60% of the street-facing building façade between two feet and eight feet in height above the street-level floor must consist of clear windows that allow views of indoor space or display areas.
 - c) Display windows used to satisfy these requirements shall be changed and maintained to create an active window display; any illumination of the display shall be internal to the façade of the building.
- (7) *Lobbies for low-activity uses*. Section 30-13, Table B, permits office uses at street level by special permit only. Entryways and lobbies at street level are allowed for office uses occurring above or below street level subject to the following requirements:
- a) Any dedicated entranceway and lobby space for such uses may not exceed a total of fifteen (15) linear feet of an exterior building wall and 400 square feet of gross floor area.
- (8) *Open Space*. Parcels greater than one acre in area shall provide beneficial open space totaling no less than 5% of the total lot area. Parcels smaller than one acre in area are encouraged to provide and maintain attractive landscaping where it enhances the public realm, environmental sustainability, and/or the appearance of the site.

Approved as to legal form and character:


DONNALYN B. LYNCH KAHN
City Solicitor

Under Suspension of Rules
Readings Waived and Approved
23 yeas 0 nays 1 absent (Alderman Gentile)


(SGD) DAVID A. OLSON
City Clerk


(SGD) SETTI D. WARREN
Mayor

Date: 10/17/12